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7
8 UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
9

10 WASHINGTON TOXICS COALITION,)
NORTHWEST COALITION FOR) Civ. No. C01-0132C
ALTERNATIVES TO PESTICIDES,)
11 PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS, and) SECOND DECLARATION OF ERIKA
12 INSTITUTE FOR FISHERIES RESOURCES,) SCHREDER
13)
Plaintiffs,)
14)
v.)
15)
ENVIRONMENTAL PROTECTION)
AGENCY, and STEPHEN L. JOHNSON,)
16 Acting Administrator,¹)
17)
Defendants,)
18)
AMERICAN CROP PROTECTION)
ASSOCIATION, et al.,)
19)
Intervenor-Defendants.)
20

21 I, Erika Schreder, hereby declare as follows:
22

23 ¹ Please note that pursuant to Fed. R. Civ. P. 25(d)(1), Stephen L. Johnson, Acting
24 Administrator, is substituted as a defendant for Michael O. Leavitt, Administrator.

1 1. I am a staff scientist with Washington Toxics Coalition. I coordinate the Toxics
2 Coalition's work to protect salmon and clean water from toxic pesticides.

3 2. As part of that work, I have filed a Public Records Act request with the
4 Washington State Department of Agriculture ("WSDA") for records related to the federal
5 consultation on the impacts of pesticides on salmon, including communications from federal
6 agencies. In response, I received two packets of responsive documents. I am attaching as
7 Exhibits 1 and 2 the cover letters from the WSDA identifying and transmitting the responsive
8 documents.

9 3. The draft NOAA Fisheries nonconcurrence letter in Environmental Protection
10 Agency's ("EPA's") findings that certain pesticides are not likely to adversely affect listed
11 salmonids was provided to me by the WSDA under the Public Records Act. It was submitted in
12 support of the Toxics Coalition's motion to modify the July 2, 2002 Order as Exhibit 2 to the
13 Fifth Goldman Declaration.

14 4. While I had provided the draft nonconcurrence letter to my attorneys soon after I
15 received it, I did not provide them the cover letters or the other responsive documents until the
16 close of business Thursday, March 24, 2005. Because I am not in the office on Fridays, today is
17 the first day I could submit the additional documents to the Court.

18 5. In the WSDA Public Records Act response providing federal correspondence
19 covering the period from January 1, 2004 through April 15, 2004, I also received two documents
20 from NOAA Fisheries to EPA pertaining to EPA's request for consultation on diazinon's
21 impacts on listed salmonids. See Exhibit 2 (May 12, 2004 WSDA Letter at 1, identifying
22 documents as correspondence from NOAA Fisheries to EPA). The first document attached as
23 Exhibit 3 indicates at 1 that NOAA Fisheries "is lacking specific information about the action,
24

1 without which consultation can not proceed." The draft letter identifies information needs and
2 outstanding questions for the diazinon consultation. The second document attached as Exhibit 4
3 asks EPA to supplement its initiation packages for the diazinon consultation. The letter attaches
4 a 12-page document containing general and specific comments on the diazinon initiation
5 package, which identifies additional information needed for the consultation.

6 6. In the WSDA Public Records Act response providing federal correspondence on
7 the pesticide consultations from January 1, 2002 through December 31, 2003, I received the
8 following three pertinent documents:

- 9 1. The written comments presented by a NOAA Fisheries representative to a panel on
10 Pesticides, Endangered Species, and the Clean Water Act in June 2003, which indicates
11 that "cooperative interagency discussions necessary to successfully complete s. 7 consults
12 – are NOT happening." Exhibit 5 at 3. The comments identify issues that have surfaced
13 in the discussions concerning the consultations. Id. at 4.
- 14 2. A letter from NOAA Fisheries to EPA requesting supplementation of the initiation
15 packages for propargite, molinate, and thiobencarb with an attachment identifying the
16 information needed to begin formal consultation. Exhibit 6 (May 8, 2003). The letter
17 explains that formal consultation cannot begin until the initiation packages are complete.
18 Id. at 1.
- 19 3. Draft comments from Metolachlor RED (April 1995) and Initiation Package (Dec 2002),
20 which is attached as Exhibit 7. The comments on the initiation package describe
21 information and analysis that has not been provided but is necessary for consultation.

22 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
23 and correct.

24 Executed in Seattle, Washington on this 28th day of March, 2005.

25 

26 Erika Schreder